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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,081	07/03/2006	Mihaela Van Der Schaar	US030347US	2559
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EXAMINER TU, CHRISTINE TRINH LE				
ART UNIT 2117		PAPER NUMBER		
MAIL DATE 04/01/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/573,081

**Applicant(s)**

SCHAAR ET AL.

**Examiner**

Christine T. Tu

**Art Unit**

2117

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 7-9, 11, 13 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 3-6, 10, 12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/23/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

1. Figures 1-7 are objected to under 37 C.F.R. 1.84(o). All features represented by boxes in the figures must be labeled with a term (or a function) which indicates what element (or what process) the boxes represent. No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claim 17 is software per se only functional described material, no action interaction or process that using these instructions to produce a useful and tangible result. [i.e. The computer program must be stored in a computer storage medium and is executable by a computer element (a processor) to perform it function].

Claims 18-20 are rejected for similar reasons as discussed for their respective parent claim, as they fail to present any limitations that resolve the deficiencies of the claim from which they depend on.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 2, 7-9, 11, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shao et al. (7,093,028 and Shao hereinafter).

Claims 1-2 and 11:

Shao teaches a communication system (figure 1) having a network (11) to provide packet-communication services from a server device (12). The service (12) includes a prioritizer (16) for examining data bitstream and reconfigures the data bitstream in a plurality of data packets based on data content. The prioritizer (16) considers the frame type and content of the data when reconfiguring the data bitstream into a plurality of data packets. The prioritizer (16) also can reconfigure the datastream into a plurality of "prioritized" data packets and also adjust the prioritization scheme based on inputs received from the sources within the network (11). The resulting of prioritized data stream can be used to better control data flow at the server (12) or within network (11) and meets high quality service (QoS) (figure 1, column 4 lines 18-30, column 5 lines 15-38, column 8 lines 40-45, column 1 line 26).

Shao does not explicitly teach a video classification processor. Shao, however, teaches (figure 2) a computer (20), comprising a processing unit (21), can be employed within the server device (12) to provide support data bitstream communications (figure 2, column 6 lines 60-64).

It would have been obvious to one skilled in the art at the time the invention was made to realize that Shao's processing unit (21) in Shao's computer (20) would have perform the functions of Shao's encoder (12). One having ordinary skill in the art would be motivated to realize so because Shao teaches that different computing and communication resources and configurations can be operatively configured to form computer (20) or perform the functions of the server device (12) (column 6 lines 65-column 7 line 2).

Claim 7:

Shao also teaches that prioritization of video information may be implemented using a type of differential service capability to provide a video differentiated transmission scheme in which media objects that are identified in a video frame are associated with various differential priorities during transmission (Column 8 lines 24-29).

Claims 8-9:

Shao's data packet and classified into different priorities with lower priorities may get dropped/delayed to better insure that packets with higher priorities get delivered (column 8 lines 12-17).

Claim 13:

Claim 13 is rejected for reasons similar to those set forth against claim 1.

Claim 17:

This claim is similar to claim 1 with additional computer-executable instructions stored on a computer readable storage medium for changing an error production strategy of a transmission of digital video signal. Shao, however, teaches a nonvolatile storage of computer readable instructions which is accessible by the computer (20) (column 7 lines 27-38).

It would have been obvious to one skilled in the art at the time the invention was made to realize that Shao's computer readable instructions would carry the functions of Shao's server device (12). One having ordinary skill in the art would be motivated to realize so because Shao's computer readable instruction does not exclude the inclusion of the functions of Shao's server device (12).

6. Claims 3-6, 10, 12 and 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine T. Tu whose telephone number is (571) 272-3831. The examiner can normally be reached on Mon-Thur. 8:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christine T. Tu/  
Primary Examiner  
Art Unit 2117

March 28, 2009